

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1860.—Ordered to be printed.

Mr. HAMMOND made the following

REPORT.

[To accompany bill S. 295.]

The Committee on Naval Affairs, to whom was referred the petition of William B. Shubrick, United States navy, have had the same under consideration, and report :

That during the war with Mexico, Commodore Shubrick, then in command of the naval forces in the Pacific, found it necessary, for the protection and advancement of the interests of the United States, to employ an interpreter and translator, and not being able to procure a suitable person elsewhere, devolved these duties upon his secretary, the nature of which will appear in the inclosed letter, fully corroborated by the facts and evidence in the case :

WASHINGTON, D. C., *February 16, 1860.*

DEAR SIR: Having been informed that the amount paid me, in 1848, by the joint order and approval of Commodore T. Ap C. Jones and yourself, for services rendered the United States as interpreter, during the war with Mexico, has been charged to your personal account, and that you now have a petition before Congress seeking relief therefrom, I beg to state that the services which I then rendered as a translator and interpreter of the Spanish language, during the cruise of the frigate Independence, were absolutely necessary and indispensable to the service, and to yourself as the commander of the squadron; that there was no other person attached to the squadron who could have properly and efficiently performed said duties—none at Mazatlan, or or at any other port on the station which we visited, whom I would have considered, under the circumstances, competent to discharge said services.

I was not only called upon to translate the many communications received directly by you from the Mexican authorities and other parties, but also those which were received by the commanders of the other vessels composing the squadron.

The additional and overwhelming duties thus imposed upon me were much greater than any one person could well have performed,

without working day and night, as I frequently did, and the very kind and ready assistance afforded you in the English department by Lieutenant William W. Russell, of the United States marine corps.

Besides, you had not been allowed a clerk by the Navy Department—a custom which, previous to said cruise, prevailed in the navy, and which, I understand, has since been again introduced, as the secretary to a squadron cannot alone reasonably perform the vast amount of writing and copying, even in time of peace, which he should perform in order to faithfully discharge his duties.

During the war with Mexico, you were fully authorized by the President, as commander-in-chief of the army and navy, to levy military contributions upon the enemy, and to disburse the same “for the purposes of the war.” I considered myself justly entitled to compensation for my *extra* services as an interpreter and translator, which services were caused by and grew out of said war. I applied for the same and received it, Commodore Jones *concurring* fully with you in the equity of the claim and the propriety of its payment.

The sums collected as military contributions, after deducting therefrom such as had been expended “for the purposes of the war,” as provided for by the President, were subsequently returned into the treasury by an act of Congress, thus showing that these moneys were not under the control of the Treasury Department, and only became so after the said enactment.

I considered then, as also many others in the squadron, that you, as commander-in-chief of the squadron, had full authority to disburse said moneys. I still adhere to the same opinion.

A reference to your very voluminous and interesting correspondence with the Navy Department, will best attest the arduous duties which I rendered, while honored with an appointment under your command.

Independently of these considerations, I respectfully hold that the secretary to a squadron is not, necessarily, under obligation to perform the duties of a translator and interpreter, there being neither law nor regulation to that effect; and the confidence you reposed in my ability and fidelity, prompted me to perform said duties, independently of those of a secretary.

I am, sir, very respectfully, your obedient servant,

H. R. DE LA REINTRIE.

Com. WM. BRANFORD SHUBRICK, *U. S. Navy.*

The salary of the secretary was \$1,000 a year. The amount paid to the interpreter and translator was \$1,550, and had he been taken from the shore would have been allowed at the department, but Mr. La Reintrie being at the time an employé of the government and receiving a salary, could not be paid any extra compensation for any service rendered beyond those of secretary. The amount, therefore, stands charged upon the books of the treasury against the accounts of Commodore Shubrick.

The following letter from the Attorney General will more fully explain the law controlling the officers of the government in the premises :

ATTORNEY GENERAL'S OFFICE, *November 10, 1858.*

SIR: It appears from your letter of the 5th instant, and the papers by which it is accompanied, that Mr. Henry La Reintrie, in the year 1848, was on board the *Independence*, the flag ship of the Pacific squadron. He was rated on the books of the vessel as commodore's secretary, and for the services he performed in that capacity he was entitled to receive, and did receive, the pay fixed by law and the regulations. He could not, therefore, receive any extra allowance or compensation in any form whatever for any service which it was possible for him to render, either within the line of his duty or outside of it, without a plain violation of the act of 1842. On this subject my advice was asked by and given to the Secretary of the Interior on the 17th of October, 1857; and I adhere to the construction of the statute which I then, after careful consideration, thought the true one.

During the time Mr. La Reintrie was acting as commodore's secretary, he was employed as interpreter of Spanish and French, for which service outside of his duty as secretary, the commodore considered him entitled to the sum of \$1,550, and approved of his account against the government for that amount. The purser of the vessel paid it upon being ordered a second time by the commodore to do so; but he failed to get it allowed by the Fourth Auditor when he came to settle his accounts. It stands now disallowed on the books of the Treasury Department, and charged, it would seem, to Commodore Shubrick. It is impossible for me to give you any advice under which you can lawfully relieve the Commodore from the obligation of refunding it. Of course, his order upon the purser to pay it was made in perfect good faith, and under the conviction that it was legal as well as just. I take the statements contained in his letter to the Fourth Auditor, every word of them, for absolute verity, and I have permitted all the considerations he mentions there to have their due weight. Commodore Shubrick *did* collect a large amount of money upon the Pacific coast; Mr. La Reintrie's services as interpreter *were* necessary to him; the Commodore *might* have evaded the law which prohibits this payment if he had thought proper to do so; and the government probably *has* gained largely by the whole transaction. These are reasons which would appeal powerfully to Congress, who can make and unmake the law at its pleasure. But the natural and abstract justice of a claim is not a reason why the Executive should pay it in defiance of a law which forbids it. After giving this very decided opinion against the legal right of the Navy Department, and the accounting officers to make the allowance, I cannot close without expressing the hope that relief will be afforded to Commodore Shubrick in some other form.

I am, very respectfully, &c.,

J. S. BLACK.

Hon. ISAAC TOUCEY,

Secretary of the Navy, Washington, D. C.

The Secretary of the Navy, the Attorney General, and the Auditors of the Treasury, to whom the claim was presented, considered it one calling for relief from Congress, in which your committee unanimously concur, and report the accompanying bill, with the recommendation that it pass.

